

# HOUSE BILL 221

Q7  
HB 166/09 – W&M

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By: **Delegates Kullen, Bartlett, V. Clagett, Conway, Costa, Frush, Haddaway, Hecht, Jameson, Krebs, Mathias, McComas, McIntosh, Montgomery, Murphy, Myers, O'Donnell, Stull, and Jenkins**

Introduced and read first time: January 22, 2010

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Exclusion for Qualified Agricultural Property**

3 FOR the purpose of altering the determination of the Maryland estate tax under  
4 certain circumstances to exclude from the value of the gross estate the value of  
5 certain agricultural property; providing for the recapture of certain Maryland  
6 estate tax under certain circumstances; requiring the Comptroller to adopt  
7 certain regulations; providing for the application of this Act; defining certain  
8 terms; and generally relating to the Maryland estate tax.

9 BY repealing and reenacting, with amendments,  
10 Article – Tax – General  
11 Section 7–309(b)(1) and (2)  
12 Annotated Code of Maryland  
13 (2004 Replacement Volume and 2009 Supplement)

14 BY adding to  
15 Article – Tax – General  
16 Section 7–309(c)  
17 Annotated Code of Maryland  
18 (2004 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Tax – General**

22 7–309.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Except as provided in paragraphs (2) through (7) of this subsection  
2 **AND SUBSECTION (C) OF THIS SECTION**, after the effective date of an Act of  
3 Congress described in subsection (a) of this section, the Maryland estate tax shall be  
4 determined using:

5 (i) the federal credit allowable by § 2011 of the Internal  
6 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant  
7 to the Act of Congress; and

8 (ii) other provisions of federal estate tax law as in effect on the  
9 date of the decedent's death.

10 (2) Except as provided in paragraphs (3) through (7) of this subsection  
11 **AND SUBSECTION (C) OF THIS SECTION**, if the federal estate tax is not in effect on  
12 the date of the decedent's death, the Maryland estate tax shall be determined using:

13 (i) the federal credit allowable by § 2011 of the Internal  
14 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant  
15 to the Act of Congress; and

16 (ii) other provisions of federal estate tax law as in effect on the  
17 date immediately preceding the effective date of the repeal of the federal estate tax.

18 **(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
19 **THE MEANINGS INDICATED.**

20 **(II) "FARMING PURPOSES" HAS THE MEANING STATED IN §**  
21 **2032A(E)(5) OF THE INTERNAL REVENUE CODE.**

22 **(III) "QUALIFIED AGRICULTURAL PROPERTY" MEANS REAL**  
23 **OR PERSONAL PROPERTY THAT IS USED PRIMARILY FOR FARMING PURPOSES.**

24 **(IV) "QUALIFIED RECIPIENT" MEANS AN INDIVIDUAL WHO**  
25 **ENTERS INTO AN AGREEMENT TO USE QUALIFIED AGRICULTURAL PROPERTY**  
26 **FOR FARMING PURPOSES AFTER THE DECEDENT'S DEATH.**

27 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
28 **MARYLAND ESTATE TAX SHALL BE DETERMINED BY EXCLUDING FROM THE**  
29 **VALUE OF THE GROSS ESTATE THE VALUE OF QUALIFIED AGRICULTURAL**  
30 **PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A**  
31 **QUALIFIED RECIPIENT.**

32 **(3) THE MARYLAND ESTATE TAX SHALL BE RECAPTURED IF,**  
33 **WITHIN 10 YEARS AFTER THE DECEDENT'S DEATH AND BEFORE THE DEATH OF A**

1 QUALIFIED RECIPIENT, THE QUALIFIED RECIPIENT CEASES TO USE THE  
2 QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES.

3 (4) THE AMOUNT OF THE ESTATE TAX IMPOSED BY PARAGRAPH  
4 (3) OF THIS SUBSECTION SHALL BE THE ADDITIONAL MARYLAND ESTATE TAX  
5 THAT WOULD HAVE BEEN PAYABLE AT THE TIME OF THE DECEDENT'S DEATH  
6 BUT FOR THE EXCLUSION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

7 (5) THE COMPTROLLER SHALL ADOPT REGULATIONS TO  
8 PROVIDE FOR THE RECAPTURE OF THE ESTATE TAX UNDER PARAGRAPHS (3)  
9 AND (4) OF THIS SUBSECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 2010, and shall be applicable to decedents dying after December 31, 2009.